

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

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|--------------------------|---|--|
| UNITED STATES OF AMERICA |) | CRIMINAL NO. 1:04cr385 |
| |) | |
| v. |) | Count 1: 18 USC §§ 2 and 924(n) |
| |) | Inducing Others to Conspire to Use Firearms |
| ALI AL-TIMIMI |) | |
| |) | Count 2: 18 USC § 373 |
| |) | Soliciting Others to Levy War |
| |) | |
| |) | Count 3: 18 USC §§ 2 and 2384 |
| |) | Inducing Others to Conspire to Levy War |
| |) | |
| |) | Count 4: 50 USC § 1705 Attempting to |
| |) | Contribute Services to the Taliban |
| |) | |
| |) | Count 5: 18 USC § 2 and 50 USC § 1705 |
| |) | Inducing Others to Aid the Taliban |
| |) | |
| |) | Count 6: 18 USC §§ 2 and 371 Inducing |
| |) | Others to Conspire to Violate the Neutrality Act |
| |) | |
| |) | Counts 7-8: 18 USC §§ 924(c) and 2 |
| |) | Inducing Others to Use Firearms |
| |) | |
| |) | Counts 9 -10: 18 USC §§ 844(h) and 2 |
| |) | Inducing Others to Carry Explosives |

SUPERSEDING INDICTMENT

February 2005 Term - At Alexandria

General Allegations

THE GRAND JURY CHARGES THAT:

1. As used in this Superseding Indictment, “jihad” describes a religious obligation of Muslims to struggle or strive for the defense of and advancement of Islam, and “mujahideen” describes warriors engaged in violent jihad.

2. The Taliban, at all times relevant to this Superseding Indictment until early 2002, was the political/military entity headquartered in Kandahar, Afghanistan, that exercised de facto control over the territory of Afghanistan until its defeat in late 2001 and early 2002 by a multi-national coalition that included the United States.

3. Al-Qaeda, at all times relevant to this Superseding Indictment, was an international terrorist group founded by Usama bin Laden and others, dedicated to opposing the United States and many other governments with force and violence. Bin Laden declared a violent jihad against the United States and its citizens, which he carried out through al-Qaeda and its affiliated organizations. Beginning in or about 1996, bin Laden and others operated al-Qaeda from Afghanistan, and forged close relations with the Taliban.

4. Lashkar-e-Taiba, also known as "LET," is the military wing of an organization in Pakistan known as Markaz Dawa Wa'al Irshad, which was founded to organize Pakistani mujahideen participating in the violent jihad against the Russians in Afghanistan. Since the Russians left Afghanistan, the primary - - but not exclusive - - focus of Lashkar-e-Taiba has been on conducting violent jihad against the Government of India. Lashkar-e-Taiba operates training camps for individuals from around the world seeking to be mujahideen, and claims to have trained thousands to fight in Afghanistan, Kashmir, Chechnya, Bosnia, Kosovo, and elsewhere.

5. On July 4, 1999, President Clinton declared a national emergency to deal with the threat posed by Al-Qaeda and the Taliban. In Executive Order 13129, President Clinton prohibited, among other things, United States persons from making or receiving any contribution of funds, goods, or services to or for the benefit of the Taliban. On June 30, 2000, the national emergency with respect to the Taliban was continued. One year later, the national emergency

was again continued, pursuant to a finding by President Bush that “[t]he Taliban continues to allow territory under its control in Afghanistan to be used as a safe haven and base of operations for Usama bin Laden and the al-Qaida organization who have committed and threaten to continue to commit acts of violence against the United States and its nationals.”

6. On September 11, 2001, terrorists hijacked four commercial airplanes. They flew two of the planes into the World Trade Center towers in Manhattan, and one into the Pentagon in Virginia. The fourth plane crashed in Pennsylvania. Thousands of victims were killed or injured, and there was enormous destruction of property.

7. By September 13, 2001, newspapers reported that the Bush Administration won NATO support for a possible strike against Usama bin Laden and his supporters in Afghanistan, and was pressuring Pakistan for intelligence and logistical backing. That same day, newspapers further reported that the Taliban was bracing for an imminent attack by the United States and sent its top leader Mullah Mohammad Omar into hiding.

8. In response to the September 11, 2001, attacks, the United States demanded that the Taliban turn over bin Laden. After the Taliban refused those demands, the United States and allied forces entered Afghanistan and engaged the Taliban in combat to prevent it from allowing al-Qaeda to use Afghanistan as a base for terrorist acts against the United States and around the world.

9. American troops started the ground war against the Taliban on or about October 20, 2001. On or about November 10, 2001, the Taliban lost the key city of Mazar-e-Sharif, and three northern provincial capitals. By November 11, 2001, the Taliban was being routed through northern Afghanistan. On or about November 13, 2001, the Taliban withdrew from the Afghan

capital of Kabul and Northern Alliance forces allied with the United States took control of the city. By November 15, Taliban forces had retreated to Kandahar.

10. From in or about 2000 to on or about September 11, 2001, defendant ALI AL-TIMIMI, was the primary lecturer at the Dar al Arqam Islamic Center, also known as the Center for Islamic Information and Education, an organization in Falls Church, Virginia, that focused on teaching in the English language about Islamic faith, practice, and civilization. Defendant AL-TIMIMI was highly respected by the students at the Dar al Arqam Islamic Center as a scholar who had lectured around the world on topics related to Islam.

COUNT 1

Counseling and Inducing A Conspiracy to
Use Firearms in Furtherance of Crimes of Violence

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations listed in this Superseding Indictment.

2. Between on or about September 16, 2001, and continuing thereafter up to on or about May 2003, within Fairfax County in the Eastern District of Virginia and elsewhere, defendant ALI AL-TIMIMI did unlawfully and knowingly aid, abet, counsel, and induce Masoud Khan, Randall Royer, Yong Kwon, Muhammad Aatique, Khwaja Hasan, Donald Surratt, and others known and unknown to the grand jury, to combine, conspire, confederate, and agree together and with others known and unknown to the grand jury to use, carry, possess, and discharge firearms during, in relation to, and in furtherance of crimes of violence for which he and they may be

prosecuted in a court of the United States, in violation of Title 18, United States Code, Section 924(c), and did procure the commission of such offense.

Overt Acts

In furtherance of the conspiracy the commission of which the defendant procured, and to accomplish the objects of the conspiracy, the defendant and the conspirators he aided, abetted, counseled, and induced, committed overt acts in the Eastern District of Virginia, and elsewhere, including but not limited to the following:

1. On or about September 16, 2001, ALI AL-TIMIMI came to the house of Yong Kwon in Fairfax, Virginia, to speak about the events of 9/11 to a group of Muslim men who had trained for violent jihad and most of whom possessed AK-47-style firearms.

2. On or about September 16, 2001, at Kwon's house, ALI AL-TIMIMI told Kwon, Randall Royer, Masoud Khan, Hammad Abdur-Raheem, Caliph Basha Ibn Abdur-Raheem, Muhammed Aatique, and Khwaja Hasan that the time had come for them to go abroad to join the mujahideen engaged in violent jihad in Afghanistan.

3. On or about September 16, 2001, at Kwon's house, ALI AL-TIMIMI told his listeners that American troops likely to arrive in Afghanistan would be legitimate targets of the violent jihad in which his listeners had a duty to engage.

4. On or about September 16, 2001, the individuals gathered at Kwon's house discussed obtaining military-style training from Lashkar-e-Taiba in order to join the mujahideen expected to engage in violent jihad against American troops in Afghanistan.

5. On or about September 16, 2001, at Kwon's house, ALI AL-TIMIMI told the gathered individuals considering whether to obtain military-style training from Lashkar-e-Taiba in Pakistan that the organization was on the correct path.

6. On or about September 16, 2001, at the meeting at Kwon's house, ALI AL-TIMIMI told the conspirators that what he said at the meeting must be kept secret.

7. On or about September 17, 2001, ALI AL-TIMIMI advised Yong Kwon and Khwaja Hasan how to reach the Lashkar-e-Taiba camp undetected.

8. On or about September 17, 2001, Yong Kwon and Khwaja Hasan traveled to the Pakistani Embassy in Washington, D.C., to apply for visas to travel to Pakistan.

9. On or about September 18, 2001, Masoud Khan traveled to the Pakistani Embassy in Washington, D.C., to apply for a visa to travel to Pakistan.

10. On or about September 18, 2001, Yong Kwon and Khwaja Hasan drove Masoud Khan to Pennsylvania to spend the night at the home of Muhammed Aatique.

11. On or about September 19, 2001, Muhammed Aatique and Masoud Khan traveled from JFK Airport in New York, to Karachi, Pakistan.

12. On or about September 20, 2001, Yong Kwon and Khwaja Hasan traveled to Dulles Airport to board their flights for Pakistan via New York and Manchester, England.

13. On or about September 20, 2001, Muhammed Aatique and Masoud Khan arrived in Karachi, Pakistan.

14. On or about September 22, 2001, Yong Kwon and Khwaja Hasan arrived in Karachi, Pakistan.

15. In or about late September 2001, Muhammed Aatique traveled to a Lashkar-e-Taiba camp near Muzafrabad, Pakistan.

16. In or about early October 2001, Yong Kwon, Khwaja Hasan, and Masoud Khan traveled to a Lashkar-e-Taiba camp near Muzafrabad, Pakistan.

17. In or about early October 2001, at Lashkar-e-Taiba's Masada camp near Muzafrabad, Pakistan, Muhammed Aatique fired an AK-47 automatic rifle and a machine gun.

18. In or about early October 2001, at Lashkar-e-Taiba's Ibn Masood camp near Muzafrabad, Pakistan, Muhammed Aatique fired an antiaircraft gun and a rocket-propelled grenade.

19. On or about October 15, 2001, at a meeting at his home in Fairfax, Virginia, ALI AL-TIMIMI told Donald Surratt, Ibrahim Al-Hamdi, Hammad Abdur-Raheem, Caliph Abdur-Raheem, Unindicted Conspirator #2, and others that America was at war with Islam and would soon attack the Taliban in Afghanistan.

20. On or about October 15, 2001, during the meeting, ALI AL-TIMIMI told Donald Surratt, Ibrahim Al-Hamdi, Hammad Abdur-Raheem, Caliph Abdur-Raheem, Unindicted Conspirator #2, and others that they were obligated to help the Taliban in the face of an attack by the United States.

21. On or about October 21, 2001, ALI AL-TIMIMI counseled an associate that they were obligated to support the Taliban, Mullah Omar, and "the Arabs with them" by "body, wealth and word even if some find that distasteful."

22. In or about mid-October 2001, at Lashkar-e-Taiba's Masada camp near Muzafrabad, Pakistan, Masoud Khan, Khwaja Hasan, and Yong Kwon each fired AK-47-style automatic rifles and machine guns.

23. In or about late October 2001, at Lashkar-e-Taiba's Ibn Masood camp near Muzafabad, Pakistan, Masoud Khan, Khwaja Hasan, and Yong Kwon each fired AK-47-style automatic rifles, machine guns, an antiaircraft gun, and a rocket-propelled grenade.

24. In or about November 2001, Masoud Khan, Yong Kwon, Khwaja Hasan, and Unindicted Conspirator #2 traveled to a Lashkar-e-Taiba office in Lahore, Pakistan.

25. On February 1, 2003, ALI AL-TIMIMI provided the following message to his followers:

This morning, the world heard news about the crash of the space shuttle. There is no doubt that Muslims were overjoyed because of the adversity that befell their greatest enemy. Upon hearing the news, my heart felt certain good omens that I liked to spread to my brothers.

First: The Name of the Shuttle: "Columbia" is the name of the shuttle, called after the name of "Columbus," the sailor who discovered the American Continent in 1492 after the fall of Grenada, the last Islamic stronghold in Andalusia. Historians know that, after discovering the two American Continents, the Romans (the Christians of Europe) exploited their wealth in order to be able to control the Islamic World. The Columbia crash made me feel, and God is the only One to know, that this is a strong signal that Western supremacy (especially that of America) that began 500 years ago is coming to a quick end, God Willing, as occurred to the shuttle.

Second: The Shuttle Crew: The Israeli Ambassador to the UN described the Israeli astronaut as someone carrying all the hopes and ambitions of the Israeli people. And so, God Willing, all these hopes and ambitions were burnt with the crash and the burning of the shuttle and one of its astronauts, the Israeli.

Third: The Crash Location: As soon as CNN announced the crash of the space shuttle nearby the city of Palestine, in Texas, I said to myself "God is Great". This way, God Willing, America will fall and disappear (nearby Palestine). The State of Texas is also the state of the foolish, obeyed President Bush the son. And

so we hope, God Willing, similar to the crash of the shuttle on his state, his nation would fall upon his head due to his foolish policy.

Fourth: The President's Condolences to the American People:

In the words that President Bush used to console his people, he referred to the Book of Isiah where there is a praise to God's creation, His stars and planets. I said to myself, Praise the Lord, in this same Book of Isiah there are news about the coming of Prophet Muhammad and a warning of the destruction of the Jews at the end of time. [A citation from the Koran follows].

And so, there are other signs that would take a long time to recount. For example, every time the Americans believe that they control the whole earth and the skies, and act as they wish, there comes a sign that reminds us that God, Almighty, is greater than his creatures, sitting on His Chair, handling everything, and that His angels act according to His commands. And so, he whoever will try to raise the Jews, who are a nation that God covered with humiliation and deserved God's wrath, will be afflicted with divine humiliation and wrath as much as he supports them.

As I mentioned earlier, these are all ideas that came to me when I heard of the accident, and hopes that I wish God would fulfill, and God is the only One to know.

26. On or about May 8, 2003, in Gaithersburg, Maryland, Masoud Khan possessed an AK-47-style rifle, a document entitled "The Terrorist's Handbook" containing instructions regarding how to manufacture and use explosives and chemicals as weapons, and a fatwa from Usama bin Laden from October 2001, that declared, in part:

So here is America, Allah has struck it in one of its vital points, so He destroyed her greatest of buildings. And unto Allah is all praise and He has favored us with this blessing.

And here is America filled with terror from its north to its south, from its east to its west. And unto Allah is all praise and He has favored us with this blessing.

(In violation of Title 18, United States Code, Sections 2 and 924(n).)

COUNT 2

Solicitation to Levy War Against the United States

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations and the overt acts listed in Count 1 of this Superseding Indictment.
2. Between on or about September 16, 2001, and continuing up to on or about October 21, 2001, in Fairfax County, in the Eastern District of Virginia, defendant ALI AL-TIMIMI, with intent that another person engage in conduct constituting a felony that has as an element the use, attempted use or threatened use of physical force against property or the person of another in violation of the laws of the United States, and under circumstances strongly corroborative of that intent, did knowingly and unlawfully, solicit, command, induce, and otherwise endeavor to persuade Masoud Khan, Yong Kwon, Khwaja Hasan, Muhammed Aatique, Randall Royer, Hammad Abdur-Raheem, Donald Surratt, Unindicted Conspirator #2, Caliph Basha Ibn Abdur-Raheem and others known and unknown to the grand jury, to levy war against the United States and adhere to their enemies, while owing allegiance to the United States, giving aid and comfort to the Taliban in the United States and Afghanistan and elsewhere, in violation of Title 18, United States Code, Section 2381.

(In violation of Title 18, United States Code, Section 373.)

COUNT 3

Counseling and Inducing A Conspiracy
To Levy War Against the United States

____ THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations and the overt acts listed in Count 1 of this Superseding Indictment.

2. Between on or about September 16, 2001, and continuing thereafter up to in or about May 2003, within Fairfax County in the Eastern District of Virginia and elsewhere, defendant ALI AL-TIMIMI did unlawfully and knowingly aid, abet, counsel, and induce Masoud Khan, Randall Royer, Yong Kwon, Muhammad Aatique, Donald Surratt, Unindicted Conspirator #2, and Khwaja Hasan and others known and unknown to the grand jury to combine, conspire, confederate and agree together and with others known and unknown to the grand jury, to levy war against the United States, and did procure the commission of such offense.

(In violation of Title 18, United States Code, Sections 2 and 2384.)

Count 4

Attempt to Contribute Services to the Taliban

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations and the overt acts listed in Count 1 of this Superseding Indictment.

2. Between on or about September 16, 2001, and on or about October 21, 2001, in Fairfax County in the Eastern District of Virginia, and elsewhere, defendant ALI AL-TIMIMI did unlawfully, knowingly, and willfully violate a regulation issued under Chapter 35 of Title 50, United States Code, in that defendant attempted to supply services to the Taliban, to the territory of Afghanistan controlled by the Taliban, and to persons whose property and interests in property were blocked pursuant to Title 31, Code of Federal Regulations, Section 545.204.

(In violation of Title 50, United States Code, Section 1705(b), Title 18, United States Code, Section 2, Title 31, Code of Federal Regulations, Sections 545.204 and 545.206, Executive Order No. 13224, 66 Fed. Reg. 49079 (2001); 65 Fed. Reg. 41549 (2000); Executive Order 13129, 64 Fed. Reg. 36759 (1999).)

COUNT 5

Counseling and Inducing An Attempt to Aid the Taliban

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations and the overt acts listed in Count 1 of this Superseding Indictment.

2. Between on or about September 16, 2001, and on or about October 21, 2001, within Fairfax County in the Eastern District of Virginia and elsewhere, defendant ALI AL-TIMIMI did unlawfully and knowingly aid, abet, counsel, and induce Masoud Khan, Randall Royer, Yong Kwon, Muhammad Aatique, Donald Surratt, Unindicted Conspirator #2, and Khwaja Hasan and others known and unknown to the grand jury to attempt to violate a regulation issued under Chapter 35 of Title 50, United States Code, by willfully and unlawfully attempting to supply services to the Taliban, to the territory of Afghanistan controlled by the Taliban, and to persons whose property and interests in property were blocked pursuant to Title 31, Code of Federal Regulations, Section 545.204, in violation of Title 50, United States Code, Section 1705, and did procure the commission of such offense.

(In violation of Title 50, United States Code, Section 1705(b), Title 18, United States Code, Section 2, and Title 31, Code of Federal Regulations, Sections 545.204 and 545.206, Executive Order No. 13224, 66 Fed.Reg. 49079 (2001); 65 Fed. Reg. 41549 (2000); Executive Order 13129, 64 Fed. Reg. 36759 (1999).)

COUNT 6

Counseling and Inducing A Conspiracy to Violate the Neutrality Act

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations and the overt acts listed in Count 1 of this Superseding Indictment.

2. Between on or about September 16, 2001, and May 2003, within Fairfax County in the Eastern District of Virginia and elsewhere, defendant ALI AL-TIMIMI did unlawfully and knowingly aid, abet, counsel, and induce Masoud Khan, Randall Royer, Yong Kwon, Muhammad Aatique, Donald Surratt, Unindicted Conspirator #2, Khwaja Hasan, and others known and unknown to the grand jury to combine, conspire, confederate and agree together and with others known and unknown to the grand jury, to begin, provide for, prepare a means for, and take part in military expeditions and enterprises to be carried on from the United States against the territory and dominion of foreign states, districts and peoples with whom the United States was at peace, in violation of Title 18, United States Code, Section 960, and did procure the commission of such offense.

(In violation of Title 18, United States Code, Sections 2 and 371.)

COUNTS 7 - 8

Use of Firearms in Connection with a Crime of Violence

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations and the overt acts listed in Count 1 of this Superseding Indictment.

2. Between on or about September 16 and on or about September 18, 2001, in Fairfax County in the Eastern District of Virginia, defendant ALI AL-TIMIMI did unlawfully and knowingly aid, abet, counsel, induce, and procure the commission of an offense against the United States, namely, the discharge of firearms including automatic weapons classified as machine guns under Title 18, United States Code, Sections 921(a)(23) and 924(c)(1)(B)(ii), as identified below, by Khwaja Hasan and Yong Kwon in Pakistan during, in relation to, and in furtherance of crimes of violence for which the defendant, Hasan, and Kwon may be prosecuted in a court of the United States, including the conspiracy alleged in Count 1 of this Superseding Indictment, as described below:

| <u>Count</u> | <u>Principal</u> | <u>Date</u> | <u>Firearm</u> | <u>Lashkar Camp</u> |
|--------------|------------------|----------------|-----------------------------|---------------------|
| 7 | Kwon | mid-October | light machine gun | Masada |
| 8 | Hasan | Early November | AK-47-style automatic rifle | Ibn Masood |

(In violation of Title 18, United States Code, Sections 924(c) and 2(a).)

COUNTS 9 - 10

Carrying an Explosive During Commission of a Felony

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the General Allegations and the overt acts listed in Count 1 of this Superseding Indictment.

2. Between on or about September 16 and on or about September 18, 2001, in Fairfax County in the Eastern District of Virginia, defendant ALI AL-TIMIMI did unlawfully and knowingly aid, abet, counsel, induce, and procure the commission of offenses against the United States, namely, the carrying of explosives, to wit, rocket-propelled grenades, by Khwaja Hasan and Yong Kwon near Muzafrabad, Pakistan, during the commission of felonies which may be prosecuted in a court of the United States, including the conspiracy alleged in Count 1 of this Superseding Indictment, as described below:

| <u>Count</u> | <u>Principal</u> | <u>Date</u> | <u>Explosive</u> | <u>Lashkar Camp</u> |
|--------------|------------------|----------------|--------------------------|---------------------|
| 9 | Kwon | Mid-October | rocket-propelled grenade | Aqsa |
| 10 | Hasan | Early November | rocket-propelled grenade | Ibn Masood. |

(In violation of Title 18, United States Code, Sections 844(h)(2) and 2(a).)

A TRUE BILL:

FOREPERSON

Paul J. McNulty
United States Attorney

By: _____
Robert Spencer
Assistant United States Attorney
Chief, Criminal Division

Gordon D. Kromberg
Assistant United States Attorney

John T. Gibbs
Department of Justice Trial Attorney